Supreme Court, U.S.
FILED

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In The

SUPREME COURT OF THE UNITED STATES

PO KEE WONG, Pro Se- PETITIONER

VS

USPTO/BPAI Solicitor-RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT

IN RE PO KEE WONG
FOR CASE 03-1322 (SERIAL No.08/980,657)

PETITION FOR WRIT OF CERTIORARI

PO KEE WONG, Pro Se-PETITIONER
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QUESTION PRESENTED

Why should the U.S. Supreme Court take the risk of being blamed for all consequences by not to examine the Case 03-1322 further with a justifiable decision as a result of the following mistakes having been committed and enumerated in the following?

1. The USPTO examiners and Judges failed to examine the actual material evidences (all calculators with serial numbers) of this case; to spend only a little more of their precious time to comprehend the operations of various calculators on how they are used to calculate the High Power Functions; most important of all , try to understand the fundamental knowledge of mathematics before they should make the decision of ruling the Case.
2. The Solicitor's Office of the USPTO failed to submit the 5 pages of the most important admissible and credible mathematical proofs that can overturn the USPTO examiners and judges' decision. Such an action, whether intentional or not, can be construed of obstruction of justice by concealing of admissible and credible evidences of the case.
3. The 3 Panel judges of the U.S. Court of Appeals for the Federal Circuit chose to agree with the decision having been made by the USPTO judges and failed to call for the help from the expert witnesses from NIST; NASA; NSF and NRC to testify.

PARTIES TO THE PROCEEDINGS

The only parties to the proceedings are those listed in the caption of the case.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	(i)
PARTIES TO THE ROCEDINGS	(ii)
TABLE OF CONTENTS	(ii)
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTION AND STATORY PROVISIONS	2
STATEMENT OF THE CASE	2
REASONS FOR GRANTING THE PETITION	3
CONCLUSION	5

APENDIX A
Dec. 5, 2004 COURT ORDER..... A1
(COMBINED PETITION FOR PANEL REHEARING AND REHEARING En Banc).....from page 1a to..... page 46a

IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix page 13a to 17a in the petition and is reported at COMBINED PETITION FOR PANEL REHEARING AND REHEARING En Banc.

JURISDICTION

For case 03-1322 which the United States Court of Appeals for the Federal Circuit decided on October 27, 2003.

A timely petition for rehearing was denied by the the United States Court of Appeals for the Federal Circuit on the following date of November 10, 2003.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Pursuant to the U.S. Supreme Court Rule 10 (c) and the question set forth for this

appeal that has not been, but should be, settled by this Court.

STATEMENT OF THE CASE

- The rejection of the Claim 1 of Patent Application No.08/980,657 under 35 U.S.C Section 102(b) by the examiner only on Sharp, EL-5200 Graphic Scientific Calculator Owner's Manual, pp.36, is **NOT APPROPRIATE** as indicated by the 3 arguments: No.I from page 3/14 to page 4/14; No. II from page 5/14 to 6/14; No. III from page 6/14 to page 14/14 in the 14 pages of **APPEAL BRIEF.**
- The USPTO Judges refused to spend a little more of their precious time in trying to examine and to understand the arguments No. III from page 6/14 to page 14/14 in the **APPEAL BRIEF that provides the actual and the most important evidences of 5 most updated Calculators not being able to function properly for the calculation of High Power Functions.**
- The USPTO Judges' **KEY WORDS** to reject the claim of the Patent Application had also been clearly answered and encountered in my 5 pages **REQUEST FOR REHEARING that was submitted to Craig R. Feinberg (Tel: 703-308-9797;Fax: 703-308-6199), Program and Resource Administrator of BPAI On December 16, 2002.**

- **The original action that I wanted the USPTO Court to take is to consider my right according to 35 U.S.C. 145 Civil action to obtain patent. All the arguments can be cleared, if the USPTO Judges; the patent examiners; Sharp Corporation; Hewlett Packard; Texas Instruments; IBM; NASA and the Appellant Po Kee Wong each party of 8 should be tested and openly challenged to solve a very simple problem involved in High Power Function.**
-
- The original action that I wanted the U.S. Court of Appeal for the Federal Circuit to take is to examine the Claim by open invitation of expert witnesses from various U.S. governmental organizations that will be and have been involved in High Power Functions Calculation in their computer programs.
- It is unfortunate that the PANEL REHEARING and the REHEARING En Banc that was submitted to the U.S. Court of Appeal for the Federal Circuit on November 10, 2003 had also been denied. All these lead to this appeal to the Supreme Court of the United States for a final justifiable decision.

REASONS FOR GRANTING THE PETITION

- There are 8 reasons listed from page No. SA0039 to page No. SA0045 (7 pages) in the **BRIEF AND SUPPLEMENTAL APPENDIX FOR APPELLEE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE** to grant the Claim 1.as the way as it is written.

- **The number 8th reason of the above document is quoted here " Furthermore, the new calculator to be produced under claim 1 has great impacts in mathematics of all levels by means of Calculators and Computers for educational purposes; for NASA Space Reentry Vehicle Programs; DOD Missile Targeting Programs all of which are involved in the calculations of " High Power Functions". There were many previous technical reports relevant to the above programs must be re-examined again due to the suspected errors of inputs into all old calculators and computers. Your allowances of this claim 1 will provide the U.S. Government a good calculator and computer to make all those correction in all previous and current programs for education; space exploration; and defense programs."**
- **The REQUEST FOR REHEARING** that was submitted to the USPTO BOARD OF PATENT APPEALS AND INTERFERENCE on December 16, 2002 should be entered for examination and that it is sufficient to overturn all decisions having been made by the 6 judges in two Courts.
- Appellant Po Kee Wong's August 5, 2003 response to Federal Circuit Court Judge **RANDALL R. RADER 'S** July 30, 2003 order (5 pages) should be read and examined before the Supreme Court.
- Appellant Po Kee Wong's July 11, 2003 response to Federal Circuit Court Judge **LOURIE'S** June 30, 2003 order (4 pages) should also be read and examined before the Supreme Court.

The last 3 documents had been included in the **COMBINED PETITION FOR PANEL REHEARING AND REHEARING En Banc** that was submitted on November 10, 2003 to U.S. Court of Appeals for the Federal Circuit. The entire document of **REHEARING En Banc is being submitted here to the Supreme Court in this appeal as APPENDIX A.**

CONCLUSION

Based on the questions and reasons with the document of **COMBINED PETITION FOR PANEL REHEARING AND REHEARING En Banc (46 pages)** attached and submitted as APPENDIX A, the petition for a writ of certiorari should be granted.

Respectfully submitted,

Po Kee Wong

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APPENDICES

ORDER

A combined petition for panel rehearing and for rehearing en banc having been filed by the APPELLANT, and the petition for rehearing having been referred to the panel that heard the appeal, and thereafter the petition for rehearing en banc having been referred to the circuit judges who are in regular active service,

UPON CONSIDERATION THEREOF, it is

ORDERED that the petition for panel rehearing be, and the same hereby is, DENIED and it is further

ORDERED that the petition for rehearing on en banc be, and the same hereby is, DENIED.

The mandate of the court will issue on December 18, 2003, **unless another time becomes appropriate under Rule 41.**

FOR THE COURT
Signature of
Jan Horbaly
Clerk of the Court

Dated: December 5, 2003

cc: Po Kee Wong
John M. Whealan

IN RE WONG, 03-1322
(PTO – 08/980,657)

Note: Pursuant to Fed. Cir. R. 47.6, this order is not citable as precedent. It is a public record.

APPENDIX A

COMBINED PETITION FOR PANEL REHAERING AND

REHEARING En Banc

Pursuant to Federal Circuit Rule Number 35(e)-(3)

Submitted to:

United States Court of Appeals for the Federal Circuit

On November 10, 2003

03-1322
(Serial No. 08/980,657)

IN RE PO KEE WONG

Appeal from the United States Patent and Trademark Office,
Board of Patent Appeals and Interferences

Po Kee Wong, Pro Se, Appellant
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STATEMENT OF Po Kee Wong , Pro Se , Appellant:

Based on my professional judgment, I, Po Kee Wong (Pro Se Appellant), believe that this appeal requires an answer to one or more precedent setting questions of exceptional importance:

(1) Why did the USPTO Examiners and Judges avoid to have examined and to have discussed the contents of the February 24, 2000 APPEAL BRIEF from page 5/14 to page 13/14 (that is from page SA0023 to SA0031 listed in the RED BOOK submitted to the Court by USPTO)?

(2) Why did the USPTO Examiners refuse to have examined the precise mathematical proof of five pages document entitled " REQUEST FOR REHEARING " that was submitted to Craig R. Feinberg. Tel:703-308-9797, Craig.Feinberg@uspto.gov Program and Resource Administrator, on December 16,2002 for Appeal No. 2001-0411, Application No. 08/980,657 ON BRIEF?
Are the contents of the above document sufficiently to overturn all the decision that were made both by the USPTO Examiners and Judges?

(3) Why the above most important admissible document of " REQUEST FOR REHEARING " that was submitted to USPTO/BAPI On December 16, 2002 had been concealed by the USPTO Solicitor's REPLY BRIEF and not included in and submitted to the Federal Circuit Court in the RED BOOK (Brief and Supplemental Appendix for Appellee , Director of U.S. Patent Office) ?

As we all know, in analogy to a criminal case of murder, the conceal of credible and admissible evidence of a murderer's weapon can be construed by law for Obstruction of Justice. Based on the above questions (1), (2) and (3) with the submission of the above 5-pages credible and admissible " REQUEST FOR REHAERING" document in this petition, I would like to ask the Court En Banc to overrule and reverse all the previous decisions having been made by the USPTO Examiners and Judges and the decision having been made by the Circuit Court Judges NEWMAN, LOURIE and SCHALL who may not have seen and read the concealed 5-page most important evidence in the next page for the allowance of This patent application.

REQUEST FOR REHEARING

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCE

Submitted to:
Craig R. Feinberg
Tel: 703-308-9797
Craig.Feinberg@uspto.gov
Program and Resource Administrator
On December 16, 2002 by Fax to: 703-308-6199

Ex parte Po Kee Wong

Appeal No. 2001-0411

Application No. 08/980,657

ON BRIEF

Before Administrative Patent Judges: THOMAS, FLEMING, AND GROSS

According to **37 CFR 1.197 (b),**
Provides that any request for rehearing must specifically state the points believed to have been misapprehended or overlooked in the Board's decision, the Appellant Po Kee Wong respectfully submits the following arguments to the Judges in order to reverse the examiner's rejection of the claim:

Please note that, in my APPEAL BRIEF on page No. 3/14:

Section Item No. (6) Issues:
On whether Claim 1 should be rejected under 35 U.S.C. 102(b) as being clearly anticipated by " Sharp EL-5200 Graphic Scientific Calculator Owner's Manual."

Section Item No. (8) Arguments:
There are 3 arguments against the issue listed in Section Item No. (6).
They are identified by the Roman numerals as I, II, and III and each one of them will be summarized and reiterated again in the followings:

I. From page 3/14 to 4/14 arguing that:

4^3^2 should be done correctly by 4^(3^2) = 4^9 = 262,144
3^2^3 should be done correctly by 3^(2^3) = 3^8 =6,561
Please note that in calculating of 2^3^2 incorrectly by (2^3)^2 = 2^6 =64
While the correct answer should be done 2^(3^2) = 2^9 = 512

II. From page 5/14 to page 6/14:
By all the examples in argument I., the incorrect use of parentheses for calculation of " High Power Functions" will lead to non-unique representations of the original function, in particular whenever involved in solving equations of "High Power Functions". Therefore, many of the current and previous calculators having been mentioned and listed in the APPEAL BRIEF will lead to the wrong answer for the " High Power Function" as indicated.

III. From page 6/14 to page 14/14
This Section contains the most important arguments in the APPEAL BRIEF. This Section provides the actual

evidences of 5 most update Calculators, listed with their identification numbers. They are Sharp EL-9600C; TI-92; TI-82; TI-83 and HP-38G. that were used to compare their performances in solving equations involved in " High Power Functions".
The Appellant Po Kee Wong respectfully begs the Judges to spend a little more of their precious time to read and check over the contents from page 6/14 to page 14/14 again.

The main reason that the Judges have made their DECISION ON APPEAL appeared on page 3/7 to 4/7 is being quoted in the following:

Quoted " The example given by examiner at pages 3 and 4 of the answer relies upon " the priority levels of individual calculations " as set forth at the top of page 227 of Sharp. Significantly, these include the requirement as set forth at the top of page 228 of that reference that " parenthesized calculations have precedence to any calculations. " According to the example given by the examiner at pages 3 and 4 of the answer regarding the statement of the rejection, we similarly understand the reference to perform a parenthesized high power calculation first before this result is utilized as the power to the base number itself. Therefore, the claim contains no recitations in any manner, such as in the form of a negative limitation that it functions without the use of parenthetical elements, the claim clearly reads upon the subject matter disclosed in Sharp as argued by the examiner " unquoted.

THE KEY WORDS IN THE ABOVE MAIN REASON BY THE JUDGES ARE:

(1) " PARENTHESIZED CALCULATIONS HAVE PRECEDENCE TO ANY OTHER CALCULATIONS "
(2) " SUCH AS IN THE FORM OF NEGATIVE LIMITATION THAT IT FUNCTIONS WITHOUT THE USE OF PARENTHETICAL ELEMENTS "

THE ABOVE KEY WORDS CAN BE ENCOUNTERED IN THE FOLLOWINGS:

KEY WORDS (1) ARE NOT TRUE WHEN THE PARENTTHESIZED CALCULATIONS ARE APPLIED FROM THE BASE NUMBER UPWARD. THIS WILL CAUSE MUTIPLE REPRESENTATIONS OF THE ORIGINAL ORDER OF THE HIGH POWER FUNCTIONS.

KEY WORDS (2) ARE NOT TRUE AS THEY CAN BE SHOWN FROM THE FOLLOWING MATHEMATICAL PROOFS AND FOLLOWED BY AN NUMERICAL EXAMPLE FOR FUNCTIONS OF COMPLEX NUMBERS WITH OPEN CHALLEGES TO ALL PREVIOUS AND CURRENT COMPUTING MACHINES FOR THEIR NOT BEING ABLE TO SOLVE THE GIVEN PROBLEM INCLUDING BUT NOT LIMITING TO THE UTILIZATION OF SHARP EL-5200 GRAPHIC SCIENTIFIC CALCULATOR AND ITS OWNER'S MANUAL.

Given:

Complex numbers Z1 =a1 + ib1, Z2 = a2 + ib2, Z3 = a3 +ib3, Z4 = a4 + ib4,.....an+ibn

Where a1, b1, a2, b2, a3, b3, a4, b4.....an, bn all are real numbers (positive and /or negative; rational and/or irrational numbers) and i=(-1)^(1/2), the unit imaginary number.

It is defined:

Z12 = Z2^Z1 as the High Power Function of 1st Order and

Z23 = Z3^Z2 also as the High Power Function of 1st Order.

Please note that no need to use parenthesis to define the High Power Functions of 1st Order.

Now the question is how to define logically, the High Power Function of the 2nd and the higher Orders, namely Z123 and Z1234, from using the definition of the High Power Function of 1st Order?

Z123 = Z3^Z2^Z1=?

It is obvious that there are only two choices for Z123 as shown in the followings:

The 1st choice is

Z123 = Z (12) 3 = Z3^Z(12) = Z3^(Z2^Z1)

Which is a true High Power Function of 2nd Order by using the definition of High Power Function of 1st Order.

The 2nd choice is

Z1 (23) = Z (23)^Z1 =(Z3^Z2)^Z1
Now the question is that the 2nd choice a unique representation and
That it is a high power function of the 2nd Order?

The answers to these questions are that they are not!

It can be easily shown that from mathematics

Z1 (23) =(Z3^Z2)^Z1 =(Z3)^(Z2xZ1) =(Z3)^(Z1xZ2) = (Z3^Z1)^Z2

All these 4 different representations are the same High Power Functions of 1st Order!
None of them is a High Power Function of 2nd Order.
Their values are all the same but they are completely different from the 1st choice.

The above general proofs should be sufficiently answered to the rejection of this patent application by the Examiner Chuong and the Judges' decision.

All the above arguments can be put through a true test to solve a real problem openly challenge to the utilization of all calculators listed in the APPEAL BRIEF, in particular, by using Sharp EL-5200 Graphic Scientific Calculator and its Owner Manual to solve a very specific general problem:

Given:

Z1=x1 + iy1, Z2=x2 + iy2, where x1, y1, x2, y2 are unknown real numbers to be determined from solving the two following simultaneous equations involved in High Power Functions of Complex Numbers. i=(-1)^(1/2) is the unit imaginary number.

Arc Sin (Z1 + Z2)- (3^(1/2) – i) ^ ((1 + i3^(1/2)) ^(-1 + i)) =0.....Eq.(1)

Arc Sin (Z1 - Z2)- ((3^(1/2)-i)^(1 + i3^(1/2))) ^ (-1 + i) = 0 .....Eq. (2)

What is the Principal Solution of Z1 and Z2?

What are the General Solutions of Z1 and Z2?

This problem is considered the simplest one in comparison with those problems involved in functions of complex variables of many Elementary Transcendental Functions appeared in my U.S. Patent No. 6,430,516 (Primary Examiner-Kamini Shah)

Furthermore, as can be seen from the HANDBOOK OF MATHEMATICAL FUNCTIONS with formulas, graphs, and mathematical tables edited by Milton Abramowitz and Irene A Stegun and published by DOVER PUBLICATIONS, INC. , NEW YORK in 1965, it was also first published by the National Bureau of Standard (Now NIST) in 1964 that was way ahead in time compared with the publication of the Sharp EL-5200 Graphic Scientific Calculator Owner's Manual . The use of the signs of parenthesis ( ), plus (+), minus(-) division (/) are parts of Mathematical Laws which are

used by everyone for Centuries. They are widely used in the HANDBOOK to define various ELEMENATRY TRANSCENDENTAL FUNCTIONS. Thus, all those signs are not exclusively invented and owned by Sharp. Therefore, according to, 35 U.S.C. 102(b) ALL the Calculators and their Manuals mentioned in the APPEAL BRIEF including the Sharp EL-5200 Graphic Scientific Calculator and its Owner's Manual should NOT be allowed for patents at all.

In analogy to the patents being granted in a new Drug which is usually expressed in its Chemical Structure by means of Chemical Symbols like H, representing Hydrogen, C representing Carbon, Thus CH sub. 4 means Methane. These are very common elements and chemical compounds. Now, if someone invents a drug that can completely cure AIDS and that the drug must be shown in its structures by means of the Chemical Elements Symbols like C, H, O... etc. Should the USPTO deny the patent of the new drug because they must use the well- known Symbols in Chemistry like C, H, O and/or many other elements to show the Chemical Structure of the Drug?

My point is that the use ; of Parentheses (Mathematical Law of Association); of the Plus and Minus signs (The Mathematical Laws of Addition and Subtraction); of the Laws and signs of Multiplication and Division, are no difference in using the Chemical Symbols to show the structures of a particular compound of different Characteristics. Thus, the Characteristics of the High Power Functions and that the Characteristics of the new chemical compound to cure AIDS should be considered appropriate for patent applications.

The above arguments are respectfully submitted to the BOARD FOR REHEARING, your time and effort spent to re-examine this REHEARING is appreciated.

Sincerely yours,

Po Kee Wong
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NOTE: Pursuant to Fed. Cir. R. 47.6, this disposition is not citable as precedent. It is a public record. This disposition will appear in tables published periodically.

United States Court of Appeals for the Federal Circuit

03-1322
(Serial No. 08/980,657)

IN RE PO KEE WONG

DECIDED: October 27, 2003

Before NEWMAN, LOURIE and SCHALL, Circuit Judges.
PER CURIAM.

DECISION

Po Kee Wong appeals the November 20, 2002 final decision of the United States Patent and Trademark Office, Board of Patent Appeals and Interferences ("the Board"), which affirmed the final decision of the Examiner rejecting claim 1 of his patent application as being anticipated under 35 U.S.C. § 102(b) by Sharp, - EL 5200 Graphic Scientific Calculator Owner's Manual, 36, 227-28 (1989) ("the Sharp reference"). Ex Parte Po Kee Wong, No. 2001-0411 (Bd. Pat. App. & Interferences, November 20, 2002) ("BPAI Decision"). We affirm.

DISCUSSION

I.

On December 1, 1997, Mr. Wong filed the instant patent application (Serial No. 08/980,657) ("the '657 application"), entitled "Uniquely-Corrected System and Method to Compute High Power Functions." The application includes a single claim. The claim was rejected as anticipated by the Sharp reference. After final rejection, Mr. Wong appealed to the Board. The Board affirmed the examiner's rejection, and this appeal followed. We have jurisdiction pursuant to 28 U.S.C. § 1295(a)(4)(A).

II.

Mr. Wong bears the burden of establishing that the Board committed reversible error. See In re Gartside, 203 F.3d 1305, 1315-16 (Fed. Cir. 2000). Anticipation, as well as what a reference teaches, is a question of fact. Teleflex, Inc. v. Ficosa N. Am. Corp., 299 F.3d 1313, 1323 (Fed. Cir. 2002); In re Hyatt, 211 F.3d 1367, 1371-72 (Fed. Cir. 2000). We uphold the Board's fact findings if they are supported by substantial evidence in the record. See Hyatt, 211 F.3d at 1372. The substantial evidence standard is "a limited standard of review that only tests whether a determination is supported by 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" Inland Steel Indus. v. United States, 188 F.3d 1349, 1359 (Fed. Cir. 1999) (quoting Consol. Edison Co. v. NLRB, 305 U.S. 197, 229 (1938)).

We review the Board's interpretation of claim language to determine if it is "reasonable" in light of all the evidence before the Board. In re Morris, 127 F.3d 1048, 1053-54

(Fed. Cir. 1997). During prosecution, the Board must give claims their "broadest reasonable interpretation." Id. If claims are written in means-plus-function 03-1322 3 format, according to 35 U.S.C. § 112, ¶ 6, the Board must construe them "to cover the corresponding structure, material, or acts described in the specification and equivalents thereof." In re Donaldson, 16 F.3d 1189, 1193 (Fed. Cir. 1994) (en banc).

The sole issue on appeal is whether the Sharp reference anticipates claim 1, the only claim of the '657 application. Claim 1 reads as follows:

1. In a calculator of the type which has a built-in section to calculate a symbolic high power function, the improvement the built-in section comprising:

symbolic exponential discriminator means for determining the upper-most exponential power of the function and for determining whether the exponential power is an exponent to a base number within the function;

exponential calculation means for making an exponential calculation based upon the upper most exponential power;

and

means for substituting the calculation as the upper-most exponential power when the calculation is a higher power of the base number.

Claim 1 is written in means-plus-function format according to 35 U.S.C. § 112,

¶6. Thus, according to Donaldson, claim 1 must be construed in light of the methods and structure described in the specification. The '657 specification broadly describes the invention according to figures 1 and 2. The description relies on a mathematical example to describe a relatively simple high-order exponential calculation. Few details are provided and, notably, the use of parentheses to properly order the operations is not disclaimed.

The Sharp reference allows the user to establish the priority levels of various individual calculations, including exponential calculations, by using parentheses whereby the "parenthesized calculations have precedence to any other calculations." The Board, agreeing with the Examiner, stated: "[W]e similarly understand the [Sharp] reference to perform a parenthesized high power calculation first before this result is utilized as the power to the base number itself." BPAI Decision at 3.

The Board's task was to determine whether the Examiner correctly found claim 1 to be anticipated by the Sharp reference, both in light of the language of claim 1 and the corresponding description in the specification of the '657 application. The Board noted that Mr. Wong failed "to argue [that] the actual features of the claimed invention . . . are not taught or inherently found within the references argued by the examiner." Id. Instead, the Board determined that Mr. Wong's arguments appeared "to be irrelevant to the actual rejection of the claim on appeal." Id. After reviewing Mr. Wong's February 28, 2002 appeal brief to the Board, we agree with the Board's conclusion that "to a great extent appellant argues in the brief the disclosure rather than the actual claimed invention." Id. Moreover, reviewing claim 1 in light of the specification and the Sharp

reference, we conclude that there is substantial evidence to support the Board's determination that "because the claim contains no recitations in any manner, such as in the form of a negative limitation that it functions without the use of parenthetical elements, the claim clearly reads upon the subject matter disclosed in Sharp as argued by the examiner." Id. at 4.

Mr. Wong fails to recognize that "the name of the game is the claim." In re Hiniker Co., 150 F.3d 1362, 1369 (Fed. Cir. 1998). Mr. Wong's invention may very well be outstanding in its field. Nonetheless, the single broad claim and equally broad specification of the '657 application fail to specifically distinguish the invention from the prior art cited by the Examiner. When claim 1 is given its broadest reasonable interpretation, the claim "sweeps in the prior art." Id. at 1368.

For the foregoing reasons, we affirm the decision of the Board.
No costs.

RESPONSE TO:

THE ORDER issued on July 30, 2003 BY U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT JUDGE RANDALL R. RADER

SUBMITTED TO:

U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT
ON
AUGUST 5, 2003
FOR
CASE NUMBER: 03-1322
(SERIAL NUMBER: 08/980,657)
IN RE PO KEE WONG

The Appellant Po Kee Wong, Pro Se, respects the **ORDER** issued from

Judge RADER and would like to point out and to confirm **the**

corresponding documents one by one as being stated in the ORDER by

comparison of the page numbers with those in the " BRIEF AND

SUPPLEMENTAL APPENDIX FOR APPLELLEE DIRECTOR OF

THE UNITED STATES PATENT AND TRADEMARK OFFICE." (

That is The Red Book) in the followings:

(1) The Board of Patent Appeals and Interferences's decision on appeal that is listed as pages SA0006 to SA0012 in the RED BOOK.
(2) The Board's decision on rehearing that is listed on page SA0001 to SA0005 in the RED BOOK.
(3) Wong's appeal brief is listed from page SA0019 to page 0032 in the RED BOOK.
(4) Wong's brief on rehearing HAS NOT BEEN LISTED in the RED BOOK is being submitted here with this RESPONSE to Judge RADER. This is the most important document of 5 pages that was submitted to Craig R. Feinberg on December 16, 2002 and that should be considered admissible and transmitted to the merit panel assigned to hear this case according to the ORDER issued by Judge RADER.

The Appellant would like also to point out that the IMECE2003-43540 Paper entitled " THE UNIQUELY – CORRCTED METHOD TO COMPUTE HIGH POWER FUNCTIONS." that has been accepted and To be presented at the IMECE2003 November 15-21,2003, Washington DC USA is exactly the same document listed from page SA0075 to SA0081 in the RED BOOK. Therefore, the IMECE2003-43540 paper That is also being submitted with this RESPONSE is also an admissible Document. Furthermore, the Problem No. (3) in the "SUMMARY OF FUNDAMENTAL CHALLENGING PROBLEMS FOR DEVELOPING NEW NUCLEAR SAFETY STANDARD COMPTER CODES." that was presented at the NRC RIC 2003 Conference W4

Session in front of more than 800 worldwide Nuclear Professionals 2:15-3:15 PM at the Capital Hilton Hotel, Washington DC is also a Problem listed in the document (4). Therefore, the NRC Summary should also be considered admissible.

Since the Patent Application 08/980,657 is a basic patent with great impacts to the computation in computers and calculators having been extensively used in various fields of sciences, engineering, technologies and mathematics in education worldwide , therefore the 11 documents listed on page 3 of the USPTO Director's Motion should be stopped by the reasons of the APPLICABLE RULES being listed in the RESPONSE to the ORDER issued by Judge LOURE on June 30, 2003.

4 pages of the RESPONSE to Judge LOURE'S ORDER are also submitted to Judge RADER for consideration.

Respectfully submitted

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NOTE: Pursuant to Fed. Cir. R. 47.6, this order is not citable as precedent. It is a public order.

United States Court of Appeals for the Federal Circuit

03-1322
(Serial No. 08/980,657)

IN RE PO KEE WONG

ON MOTION

Before RADER, Circuit Judge

ORDER

The Director of the United States Patent and Trademark Office (PTO) moves to strike certain documents attached to Po Kee Wong's opening and reply briefs. Wong opposes.

Previously, Wong had " request(ed) permission to enter." various documents and copies of e-mail correspondence as evidence in his appeal, which the court treated as a motion to supplement the record on review. In our June 30, 2003 order, we explained that the record on review consists of documents that were before the Board of Patent and Trademark Appeals. See Fed. R. App. P. 16(a). The documents submitted by Wong were not submitted to the Board and, thus, we denied his motion to supplement the record with documents that were not part of the record on review.

Having reviewed the attachments to Wong's briefs, many of which were submitted in Wong's earlier motion to supplement the record, it appears that the only documents

properly included in his appendices are: (1) the Board of Patent Appeals and Interferences' decision on appeal, (2) the Board's decision on rehearing, (3) Wong's appeal brief, and ; (4) Wong's brief on rehearing. All other documents and correspondence (most of which is dated after the Board's January 2003 denial of rehearing) are stricken.*

Accordingly,

IT IS ORDERED THAT:

(1) The PTO's motion to strike is granted to the extent that extra-record documents in the appendices will be disregarded.

(2) A copy of this shall be transmitted to the merit panel assigned to hear this case.

Date: July 30, 2003
Signed by Circuit Judge Randall R. Rader
Filed by JAN HORBALY, Clerk
cc: Po Kee Wong
John M. Whealan, Esq.

* If this order inadertently strikes documents that were before the Board, the PTO should promptly so inform the court.

RESPONSES TO:

(1) MOTION- FROM USPTO DIRECTOR TO STRIKE ADDITIONAL DOCUMENTS SUBMITTED BY PRO SE APPELLANT PO KEE WONG. Dated July 2, 2003

(2) ORDER- FROM U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT JUDGE LOURIE. Dated June 30, 2003.

SUBMITTED TO:
U.S.COURT OF APPEALS FOR THE FEDERAL CIRCUIT
ON JULY 11, 2003
FOR
CASE NUMBER: 03-1322
(SERIAL NUMBER: 08/980,657)
IN RE PO KEE WONG

Response (1):

The Appellant Po Kee Wong opposes USPTO DIRECTOR'S MOTION on the bases of: Rules 16(a) and 16(b) listed on page 30 and: Rule 15(b)(2) on page 25-26 of the Federal Rules of Appellate Procedure – Federal Circuit Rules, Published on May 1, 2001 Washington, D.C.

The 11 documents listed on page 3 of the USPTO DIRECTOR'S MOTION can be verified and classified in the following to show which rules can be applied to admit the 11 documents:

Document Number
Applicable Rules

1. Letter to Mr. Jan Horbaly,
16(a);16(b);15(b)(2)
2. Feb, 11,2003 E-mail to Craig Feinberg
16(a) and 16(b)
3. May 8,2003 E-mail to Hughes.....
15(b)(2)
4. April 27, 2003 E-mail to Dr. Giacconi
15(b)(2)
5.Jan.27,2003 E-mail to Dr. Meserve
15(b)(2)
6. IMECE2001/T&S-23408 Paper
15(b)(2)
7. IMECE2003-43540 Paper
16(a);15(b)(2)
8. IMECE2003-43586 Paper
15(b)(2)
9. IMECE2003-43546 Paper
15(b)(2)
10.Presentation RIC2003 Session W4
16(a);16(b);15(b)(2)
11.U.S. Patent 6,430,516
16(a);16(b);15(b)(2)

Response (2):

Based on both Rules 16(a) and 16(b), the Appellant Po Kee Wong respectfully asks The Federal Circuit Judge LOURIE to Examine again the first 3 pages of the " REPLY BRIEF AND SUPPLEMENTAL APPENDIX FOR APPELLANT PO KEE WONG." SUBMITTED TO THE FEDERAL CIRCUIT COURT ON JUNE 11, 2003

The two MOST IMPORTANT admissible documents, being designated as

(A) Appellant Po Kee Wong's February 11, 2003 E-mail communication with Administrator, Craig R. Feinberg, USPTO Program and Resource Administration, Board of Patent Appeals and Interferences. 3 pages. and

(B) Appellant Po Kee Wong's December 16, 2002 " REQUEST FOR REHEARING." 5 pages, submitted to Mr. Craig R. Feinberg with precise mathematical proofs and arguments against the decision to have denied for REHEARING by USPTO.

Document (A) should have been listed immediately right after page number SA0005 in the APPELLE'S BRIEF and that
Document (B) should have been listed immediately right after page SA 0011 in the APPELLE'S BRIEF.

Apparently, both MOST IMPORTANT admissible documents have been omitted by the APPELLE'S BRIEF.

However, fortunately both of these two MOST IMPORTANT admissible documents can be tracked and seen from the attachments I.2 and II.2 in the original INFORMAL BRIEF OF APPELLANT that was submitted to the Federal Circuit Court on February 19, 2003.

With the above Responses (1) and (2), the Pro Se Appellant Po Kee Wong would like to ask the Court to deny the USPTO Director's Motion such that to allow

all the 11 documents to be admissible to the Court, pursuant to Federal Circuit Rule 47. 6. Your justifiable action to provide a fair trial for the Case 03-1322 can be achieved and will be appreciated by all educators; engineers; scientists and many other professionals worldwide.

Respectfully submitted

Po Kee Wong, Pro Se Appellant
2413 Spencer Road
Silver Spring, Maryland, 20910-2344
Tel. And Fax: 301-585-3453
E-mail: pokwong@rcn.com

C.C.:
John M. Whealan
Solicitor

James R. Hughes
Joseph G. Piccolo
Associate Solicitors

P.O.Box 15667
Arlington, Virginia 22215
Tel.: 703-305-9035 Fax:703-305-9373

Attorneys for the Director of the United States Patent and Trademark Office (Appellee)

NOTE:Pursuant to Fed. Cir. R.47.6, this order is not citable as precedent. It is a public order.

United States Court of Appeals for the Federal Circuit

03-1322
(Serial No. 08/980,657)
IN RE PO KEE WONG

ON MOTION

Before LOURIE, Circuit Judge

ORDER

Po Kee Wong " requests permission to enter " various documents and copies of e-mail correspondence as evidence in his appeal, which the court treats as a motion to supplement the record on review. The united States Patent and Trademark Office objects to the use of the documents " as evidence in (Wong's) appeal."

The record on review consnsists of documents that were before the Board of Patent and Trademark Appeals. See Fed. R. App. P. 16(a). It appears that the documents and correspondence Wong submits to this court were not submitted to the Board and, thus, are not part of the record on review.

Accordingly,

IT IS ORDERED THAT:

The motion is denied.

Date: June 30, 2003
Signature of Circuit Judge, Alan D. Lourie
Filed U.S. Court of Appeals for the Federal Circuit
JAN HORBALY, CLERK

SUPPLEMENTAL APPENDIX FOR APPELLANT PO KEE WONG

IN RESPONSE TO

BRIEF AND SUPPLEMENTAL APPENDIX FOR APPELLEE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

SUBMITTED TO

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

FOR CASE NUMBER

03-1322
(SERIAL NO. 08/980,657)

IN RE PO KEE WONG

TOTAL NUMBER OF SHEETS: 33

TOTAL NUMBER OF PAGES: 66

HAND CARRIED AND DELIVERED TO THE COURT

ON

JUNE 11, 2003

May 31, 2003

Mr. Jan Horbaly,Esq
Clerk, U.S. Court of Appeals for the Federal Circuit
717 Madison Place, NW. Washington DC 20439
Tel: 202-633-6559 Fax: 202-633-9623

Re: In Re Wong Appeal No. 03-1322 in response to Mr. James R. Hughes' May 28, 2003 letter (being attached)

Dear Mr. Horbaly:

This is to request your permission to enter the documents entitled " FUNDAMENTAL CHALLENGING PROBLEMS FOR DEVELOPING NEW NUCLEAR SAFETY STANDARD COMPUTER CODES." that was sent and had been received by yours and Mr. Hughes' Office.

The reasons for that document to be considered admissible as evidence in my appeal had been clearly explained in my May 22, 2003 10:11 AM E-mail letter to him with my personal signature and copies sent to NRC; NASA;NSF..etc. They are part of Quoted " the record made in the USPTO, and the arguments made to the Board." unquoted from Mr. Hughes' May 28, 2003 letter at the end of the second paragraph.

Please allow me to enumerate with proofs of which documents that are directly related to the attachments of the Form 1. Notice of Appeal to the United States Court of Appeals for the Federal Circuit from a Judgment or Order of a Court signed by Po Kee Wong, Pro Se on February 19,2003 and that had been sent and filed in your Office :

(1) Case 03-1322 Appeal Brief -Attachment I.2 Appellant Po Kee Wong's February 11, 2003 E-mail communications with Administrator, Craig R. Feinberg, USPTO Program and Resource Administration, Board of Patent Appeals and Interferences. 3 pages. Please read carefully on page 2 and compare the followings:

The Specific Problem is reiterated again in the followings:

Given:

Z1 = x1 + iy1, Z2 = x2 + iy2, where x1, y1, x2, y2 are unknown real numbers (means positve and/or negative; ratinoal and/or irrational nubers) to be determined from solving the two following simultaneous equations involved in High Power Functions of Complex Numbers. and i=(-1)^(1/2) is the unit imaginary number.

Solve for Z1 and Z2 from

Arc Sin (Z1+Z2) –(3^(1/2)- i) ^((1+i 3^(1/2))^(-1+ i)) = 0.....Eq. (1)

Arc Sin (Z1- Z2) –((3^(1/2)-i) ^ (1 + i3^(1/2)))^(-1+i) = 0.....Eq. (2)

What is the Principal Solution of Z1 and Z2 ?

What are the General Solutions of Z1 and Z2 ?

The above problem is exactly the same problem No. (3) appeared in the submitted document entitled

" FUNDAMENTAL CHALLENGING PROBLEMS FOR DEVELOPING NEW NUCLEAR SFAETY STANDARD COMPUTER CODES."

(2) Case 03-1322 Appeal Brief- Attachment No II. 2 entitled " REQUEST FOR REHEARING." 5 PAGES of VERY IMPORTANT ARGUMENTS together with a copy of the U.S. Patent Number 6,430,516 B1 again provide the mathematical proofs with repeated challenges to solve the above Equations (1) and (2). 18 pages

(3) Case 03-1322 Appeal Brief- Attachment III- entitled " APPEAL BRIEF " SUBMITTED BY Appellant Po Kee Wong, Pro Se on February 24, 200, 14 pages. Please note that in the APPEAL BRIEF Argument number III and all its contents from page 3/14 to 13/14, had been repeatedly and completely ignored by both the Patent Examiner and the Judges again and again. In particular, on page 13/14 argument number III 8. which is copied in the followings to explain why the recent submitted documents should be admissible to the Court for further evidences of the appeal case:

"Based on the above reasons III 1.; III 2.; III 3.; III 4.; III 5.; III 6.; III 7., it is clear that the rejection of Claim 1 under 35 U.S.C 102(b) is again inappropriate.

Furthermore, the new calculator to be produced under Claim 1 has great impacts to teach mathematics of all levels by means of calculators and computers for educational purposes (Implication of all previous proposal having been submitted to NSF but failed to obtain the supports from NSF); for NASA Space Vehicle Programs; and for DOD Missile Targeting Programs all of which are involved in the calculations of high power functions. As indicated by

reason III 7., the immediate priority for the NASA and DOD programs is to check all previous computer algorithms gain by checking which computer system can provide the correct answer for that particular problem involved in the special high power function in this appeal. There are many previous technical reports relevant to the above NASA and DOD programs that should be re-examined again due to the un-suspected errors of inputs into all our old calculators and computers."

Based on the above arguments Numbers I, II, and III being presented to you, the applicant would respectfully appeal to you for the allowance of this patent not just only for my personal interest but also for our national interests in education of all levels and for NASA and DOD space programs.

Signature of Po Kee Wong, Pro Se

The above reasons with proofs that the submitted documents entitled " FUNDAMENTAL CHALLENGING PROBLEMS FOR DEVELOPING NEW NUCLEAR SAFETY STANDARD COMPUETR CODES." be admissible as evidence to the Court are clear.

In addition to the above reasons, the following letters of communications are attached for your reference to track the records:

A. Mr. James R. Hughes' May 28, 2003 letter to Po Kee Wong, Pro Se. 1 page.
B. Po Kee Wong, Pro Se, May 08, 2003 letter to Mr. James R. Hughes ; Ms. Coates of NASA, Executive Assistant to NASA Administrator and ; Dr. R. Colwell , Director of NSF. 3 pages.

C. Po Kee Wong, Pro Se, April 27, 2003 letter to Dr. Giacconi, President of AUI and 2002 Nobel laureate for Physics. 2 pages.
D. Po Kee Wong, Pro Se, January 27, 2002 letter to Dr. Meserve, former Chairman of NRC. 2 pages.

Your consideration of putting all these submitted documents for the Appeal Case No. 03-1322 for a fair judgment by the Court in the near future will be appreciated.

Respectfully yours,

Po Kee Wong, Pro Se, 2413 Spencer Road, Silver Spring, Maryland, 20910-2344
Tel. And Fax: 301-585-3453 E-mail:pokwong@rcn.com

CC: Mr. James R. Hughes, Associate Solicitor, Office of the Solicitor
U.S. Patent & Trademark Office

REPLY BRIEF AND SUPPLEMENTAL APPENDIX FOR APPELLANT PO KEE WONG

IN RESPONSE TO

BRIEF AND SUPPLEMENTAL APPENDIX FOR APPELLEE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

SUBMITTED TO

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
FOR CASE NUMBER 03-1322
(SERIAL No. 08/980,657)

IN RE PO KEE WONG

According to item 14 (and Federal Circuit Rule 31(e)(3)), the appellant Po Kee Wong is entitled to file this REPLY BRIEF to the Court and point out to the Court that the Appellee's BRIEF has omitted the MOST IMPORTANT two documents of arguments that should have been there in the BRIEF. Because, they were the actual arguments having been made to the Board by Po Kee Wong against the Judges' decision ON REQUEST FOR REHEARING Mailed January 31, 2003 that is shown from page SA0001 to SA0005 and the Judges' DECISION ON APPEAL Mailed on November 20, 2002 that is shown from page SA0006 to SA0011.

Those two MOST IMPORTANT documents of arguments MISSING from Appellee's Filing can be seen and recovered from the Attachment No. I.2 and Attachment No. II.2 of the APPEAL BRIEF having been originally submitted with 4 copies to the Court and 1 copy to the Solicitor's Office on February 19, 2002. Specifically, the titles and pages of those two MOST IMPORTANT documents are described in the followings:

(1) ATTACHMENT NUMBER I.2. Appellant Po Kee Wong' s February 11, 2003 E-mail communication with Administrator, Craig R. Feinberg, USPTO Program and Resource Administration, Board of Patent Appeals and Interferences. 3 pages.

(2) ATTACHMENT NUMBER II.2. Appellant Po Kee Wong's REQUEST FOR

REHEARING sent on December 15, 2002 to Administrator Craig R. Feinberg, 5 pages with Po Kee Wong's U.S. Patent No. 6,430,516----------Total 18 pages.

Please note that the Patent 6,430,516 contains Appellant 's 1967 December, ASME Transaction Paper on " Thermoelastodynamics" and the ASME Century 2 Paper No. 80-C2/Aero3. On " 3-D Stream Functions". Both papers are involved in Mathematical Functions of Complex Numbers. Furthermore, these two technical papers were the proprietary information listed in pages 7-25 in an Air Force SBIR proposal under Topic Number:AF91-189 Fluid Mechanics, Proposal Title: Liquid Engine Internal Flow Dynamics. It was submitted to US DOD SBIR Program on January 9, 1991 and to NASA MSFC Center SBIR Program on July 1988. The Proposal has never been funded either by US Air Force or by NASA. It was recently submitted to UMBC faculty members for independent review and evaluation in a September 6, 2002 UMBC Mechanical Engineering Invited Seminar on Friday, in ECS Room 302 at 2:30 p.m. Functions of complex numbers are related to Engineering applications for solving problems involved in new design of atmospheric re-entry vehicles like that of NASA ST-107 Shuttle Columbia.

The above two MOST IMPORTANT documents together with the admissible RIC2002-W4 Summary and papers: IMECE2001/T&S-23408;IMECE2003-43540;IMECE2003-43586;and

IMECE2003-4356 are hereby submitted to you in the REPLY BRIEF as Supplemental Appendix

Based on the arguments presented in these two MOST IMPORTANT documents attached to the Appellant's February 18, 2003 Informal Brief, they are sufficient to overturn both the USPTO Patent Examiner and Judges's Decisions . The Appellant Po Kee Wong is respectfully to ask the Court to consider these two MOST IMPORTANT admissible evidences that were MISSING from the Appellee's BRIEF such that to allow this patent application as the way as it has been claimed and shown by the Claim 1.

Form 11. Informal Brief (Board of Contract Appeals, Board of Patent Appeals and Interferences, Trademark Trial and Appeal Board, and International Trade Commission Cases)

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Po Kee Wong, Pro Se **V.** Board of Patent Appeals and Interferences

No. 2001-0411

Informal Brief of Appellant

Read the Guide for Pro Se Petitioners and Appellants before completing this form. Attach a copy of the final decision or order of the Board or Commission. Answer the following questions as best you can. Your answers should refer to the decision or order you are appealing where possible. Use extra sheets if needed.

1. Have you ever had another case in this court? No. If so, state the name and number of each case.
2. Did the Board or Commission incorrectly decide or fail to take into account any facts? Yes. If so, what facts? (Refer to paragraph 7 of the Guide.)

The rejection of the Claim 1 of Patent Application No. 08/980,657 under 35 U.S.C. Section 102(b) by the examiner only based on Sharp, EL-5200 Graphic Scientific Calculator Owner's Manual, pp. 36, 227-28(1989) is NOT appropriate as indicated by the 3 arguments No.I; No.II;No.III:

No.I from page 3/14 to 4/14;
No.II. from page 5/14 to page 6/14;
No.III from page 6/14 to page 14/14 in the 14 pages of APPEAL BRIEF.

3. Did the Board or Commission apply the wrong law? Yes. If so, what law should be applied?
None should be applied to reject the invention even though the errors in the previous structures for calculations of High Power Functions of all calculators and calculating machines were accidentally first found by the inventor as having been stated in the original specification of the invention.

4. Did the Board or Commission fail to consider important grounds for relief? Yes. If so, what grounds?

(1) The Judges still refuse to spend a little more of their precious time in trying to examine and to understand the arguments No.III from page 6/14 to page 14/14 in the 14 pages APPEAL BRIEF that provides the actual and the most important evidences of 5 most updated Calculators not being able to function properly for the calculation of High Power Functions.(2) The Judges' KEY WORDS to support...c

Form II. (continued)
5. Are there other reasons why the Board's or Commission's decision was wrong?
Yes. If so, what reasons?
The Judges' KEY WORDS to support examiners' point of view to reject the claim of the Patent Application have also been clearly answered and encountered in my 5 pages REQUEST FOR REHEARING with positively definite

mathematical proofs. The proofs are sufficient for the allowance for the REQUEST FOR REHEARING by the Judges. It is unfortunate the the Judges chose to deny…

6. What action do you want the court to take in this case? The action that I want the court the court to take in this case is to consider my right according to 35 U.S. C. 145 Civil action to obtain patent. All the arguments can be cleared, if the Judges; the patent examiner Chuong D. Ngo; Sharp Corporation; Hewlett Packard; Texas Instruments; IBM; NASA and the Appellant Po Kee Wong each party of eight should be subjected to be tested and openly challenged….

7 Do you want to argue before the court in person? No. What are the reasons why argument will aid the court? (Refer to paragraph 15 of the Guide.)

.

8. Do you intend to represent yourself? Yes. If you have not filed a notice of appearance, indicate your full name, address, and telephone number.

Po Kee Wong
2413 Spencer Road, Silver Spring, Maryland 20910-2344
Tel.: 301-585-3453
E-mail: pokwong@rcn.com

9. I certify that a copy of this brief and any attachments was sent to Box 8, USPTO, Washington, DC 20231 the attorney for appellee.

Date Appellant's signature February 19, 2003. Appellant signature: Po Kee Wong.

In addition to mailing a copy to the attorney for the appellee, mail an original and three copies of this informal brief and attachments to:

Clerk, United States Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, DC 2043 9

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parate PO KEE WONG

Appeal No. 2001-0411
Application No. 08/980,657

ON BRIEF

Before THOMAS, FLEMING, and GROSS, Administrative Patent Judges. THOMAS, Administrative Patent Judge

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's final rejection of claim 1, the only claim on appeal.

claim 1 is reproduced below:

1.In a calculator of the type which has a built-in section to calculate a symbolic high power function, the improvement the built-in section comprising:

symbolic exponential discriminator means for determining the upper-most exponential power of the function and for determining whether the exponential power is an exponent to a base number within the function;

exponential calculation means for making an exponential calculation based upon the upper-most exponential power; and

means for substituting the calculation as the upper-most exponential power when the calculation is a higher power of the base number.

The following reference is replied upon by the examiner:

Sharp, EL-5200 Graphic Scientific Calculator Owner's Manual, pp. 36, 227-28 (1989).

Claim 1 stands rejected under 35 U.S. C. Section 102 (b) as being anticipated by Sharp.

Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and the answer for the respective details thereof.

OPINION

Appellant's invention relates to a calculator having a built in section to calculate a symbolic high power function. "Starting from the upper-most exponential, the invention sequentially performs exponential calculations downwards until the base number is finally used." Abstract, specification page 9 , lines 4 and 5. This distinct statement of the nature of the disclosed and claimed invention is expanded upon in the showing in flowchart figure 2 and best discussed at page 5 of the specification.

Because we agree with the examiner's reasoning as to the ground of rejection and responsive arguments portion of the answer, we sustain the rejection of claim 1 on appeal under 35 U.S.C. Section 102. We agree with the examiner's overall view at page 4 of the answer that the bulk of appellant's arguments in the brief appears to be irrelevant to the actual rejection of the claim on appeal and fails to argue the actual features of the claimed invention which are not taught or inherently found within the references argued by the examiner. To a great extent appellant argues in the brief the disclosure rather than the actual claimed invention.

The example given by the examiner at page 3 and 4 of the answer relies up " the priority levels of individual calculations " as set forth at the top of page 227 of Sharp. Significantly, these include the requirement as set forth at the top of page 228 of that reference that " parenthesized calculations have precedence to any other calculations." According to the example given by the examiner at pages 3 and 4 of the answer regarding the statement of the rejection, we similarly understand the reference to perform a parenthesized high power calculation first before this result is utilized as the power to the base number itself. Therefore, because the claim contains no recitations in any manner, such as in the form of a negativelimitation that it

functions without the use of parenthetical elements, the claim clearly reads uponthe subject matter disclosed in Sharp as argued by the examiner.

Appellant's arguments at the bottom of page 5 and the top of page 6, and the top of page 8 of the brief are misplaced to the extent they argue only the disclosed invention operating to perform symbolic high power calculations without parentheticals. The bulk of the remaining arguments in the brief relate to allegations as to other calculators than the one replied upon by the examiner as the basis for the rejection. Arguments as to these other calculations are unpersuasive because they have no relevance to the rejection of the claim on appeal.

Additionally, appellant's arguments at page 3 and 4 of the brief are misplaced as well. Claim 1 does not require the selecting of the upper most exponential power as the " first operation" of a plurality of operations. Similarly, the claim does not require that the substitution of the calculation of the upper exponential be made " into the next lower exponent." (1)

(1) We note in passing that various materials are present in the application file relating to correspondence with an Administrator at the Board of Appeals. They have not been submitted for consideration by the examiner and appear not to have any evidentiary purpose as to the actual rejection of the claim on appeal.

We observe that Polish and reverse Polish notation permit arbitrary mathematical expressions to be specified unambiguously without parentheticals by placing the operators immediately before or after their operands. The HP-11C calculator (early 1980's) had unique keyboarding functions. By use of the special ENTER key, the numbers or operands are sequentially entered in order, but the

chosen functions or operations are entered backwards, i.e., in the order in which they are to be performed rather than the order in which they appear in the problem to be solved. See the attached pages of the HP-11C Owner's Manual. Chain calculations are permitted beginning at page 31. We include the following example:

The way to enter 2^(3^2) without parentheses is:

2
ENTER
3
ENTER
2
Y^X (This is a button for exponents)
Y^X (The first time it would do the 3 squared, and the second time it does 2 to the 9th). No parentheses are required, but the ENTER between the 3 and the second 2 acts as parentheses.

In view of the foregoing, the decision of the examiner rejecting claim 1 on appeal under 35 U.S. C. Section 102(b) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR Section 1.136(a).

AFFIRMED

JAMES D. THOMAS
Administrative Patent Judge

MICHAEL R. FLEMING
Administrative Patent Judge

ANITA PELLMAN GROSS
Administrative Patent Judge
JDT:hh